



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Matthew Zuker, Chairman
Craig W. Hiltz, Vice Chair
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
John Lee, Associate Member

DECISION – WALPOLE ZONING BOARD OF APPEALS CASE NO. 10-18

**APPLICANT
HUGH & CHRISTINE DEERY**

LOCATION OF PROPERTY INVOLVED
20 Marylins Way, Assessors Map 40, Lot No. 100, Zoning District: RB

APPLICATION
Amendment to a previously approved Variance under Section 6-B.1 of the Zoning Bylaw to allow for the construction of a two car garage attached to the existing house.

On May 2, 2018 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting to grant a Variance for the relief requested.

The following members were present and voting:

Matthew Zuker, Chairman
Craig W. Hiltz, Vice Chair
Robert Fitzgerald, Clerk
Susanne Murphy, Member
Mary Jane Coffey, Member

RECEIVED
10 MAY 16 AM 9:10
TOWN OF WALPOLE
TOWN CLERK

A motion was made by Murphy and seconded by Coffey to allow an amendment to a previous Variance (May 27, 2005) from Section 6-B.1. of the Zoning Bylaw to allow for the construction of a two car garage attached to the existing house.

The vote was **5-0-0 in favor**, (Zuker, Hiltz, Fitzgerald, Murphy, Coffey voting); therefore the application for a **Variance** under Section 6-B.1 is hereby **granted**, subject to the following conditions:

CONDITIONS

1. The two car garage shall be constructed per the plans submitted at the public hearing on May 2, 2018.

2. **As stipulated by the Applicant at the public hearing, no cone of light will be allowed to wash onto any abutting property.**
3. **As stipulated by the Applicant at the public hearing, the exterior appearance of the addition shall match the existing house.**

REASONS FOR DECISION

It is the finding of the Board that the applicant was able to meet the requirements for the granting of a Variance, as per the following:

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship to the appellant or petitioner.*

The Applicant has shown substantial hardship as a result of the narrow, elongated shape of the lot and the placement of the dwelling on the lot. The dwelling was constructed on the left portion of the lot with no future consideration for an addition in that direction. The house configuration (fireplace chimney and entry doors) only allows for a garage on the left side and into the setback into the rear yard. The Applicant has reduced the width of the garage to 26' ft. to minimize the impact to the side-yard setback. Any further reduction would not allow for a two-car garage. The applicant would not be able to construct a two car garage if the rear setback variance was not granted due to the fact that the entrance to the main house is within the setback. This was a result of the variance granted in 2005. Therefore, this requirement is satisfied.

2. *Desirable relief may be granted without substantial detriment to the public good.*

The Applicant has provided a list of six (6) signatures from abutters who are in favor of the proposed project. Also, other houses on the street are similar in size with many having existing two car garages. Furthermore, the impact to the side setback is 3.25 feet with a total of 14.8 square feet within the setback. The rear impact is no more than the extension of the existing dwelling from the previous 2005 variance. Therefore, this requirement is satisfied.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The minimal intrusion into the side yard setback (3.25 feet) by the proposed two car garage does not nullify or derogate from the intent or purpose of the bylaw. Also, the design of the two car garage has been based on the existing structure layout and use, and has taken the neighborhood character into account. The latter effort is confirmed by the strong support of the many abutters. and the absence of any opposition. The proposed garage setback minimizes impact to the abutter and therefore the intent and purpose of the Zoning Bylaw is fulfilled. Therefore, this requirement is satisfied.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

* * * * *

Said Variance is granted pursuant to Massachusetts General Laws c. 40A, s. 10 which provides in pertinent part as follows: "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application thereof, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section."

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

"...No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant."

MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF C. 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS


Robert Fitzgerald, Clerk

RF/am

cc: Town Clerk
Engineering
Planning Board
Applicant
Board of Selectmen
Building Inspector
Conservation Commission
Abutters

This decision was made on May 2, 2018 and filed with the Town Clerk on May 16, 2018.